IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 313 OF 2007.

Sandeep M.Shah and others. ... Appellants.
Versus.
Sunil M.Shah and others. ... Respondents.

Shri Yadunath Chaudhary i/by Shri Kunal Cheema for the Appellants.

Shri Ajit S.Karwande for the Respondents Nos.1 to 4.

CORAM : ABHAY S.OKA, J.

DATED : 18th April, 2007.

P.C.:

1. Admit. Shri Karwande waives for the Respondents. Taken up for hearing forthwith.

2. This Appeal can be disposed of without going into the merits of the contentions of the rival parties. On an application for temporary injunction at Exhibit 5 filed by the Appellants, the learned trial Judge granted exparte ad-interim relief of temporary injunction as against the 4th Respondent (Defendant No.4). On 9th April 2007, an application was made by the Advocate for the Appellants pointing out that a reply was filed by the Respondents to the Application and therefore, he needed time to prepare himself. On the said Application, the learned trial Judge passed an order on the same day directing that the Application for temporary injunction should be placed for hearing on 4th

June 2007. However, he declined to continue the ad-interim relief.

3. An Application for adjournment was made by the Advocate for the Appellants as a reply was filed on the very day. The learned Judge could have granted a short time to the Appellants and heard the Application for temporary injunction immediately. However, the learned trial Judge has not continued the ad-interim injunction and has adjourned the hearing of the Application for temporary injunction to 4th June 2007. In my view, ad-interim relief granted earlier by the learned trial Judge on 7th March 2007 deserves to be extended till the Application for temporary injunction is heard. The Application for temporary injunction can be directed to be disposed of expeditiously.

4. Hence the following order is passed:

(i) The learned trial Judge will decide the Application for temporary injunction expeditiously and in any event on or before 30th June 2007. Ad-interim relief granted earlier in favour of the Appellants on the Application for temporary injunction will continue to operate till 30th June 2007.

(ii) It is made clear that all contentions of the parties are expressly kept open and the trial Court will decide the Application without being influenced by the ad-interim relief granted earlier and the continuation thereof by this Court.

(iii) The Appeal is partly allowed in the above terms with no order as to costs.

(iv) The parties and the trial Court to act on an authenticated copy of this order.

Judge.